

**At An Audit Meeting / Work Session**  
Of the Town Board of the Town of Newburgh held  
At 1496 Route 300 in said township at 7:00 P.M.  
On the 2<sup>nd</sup> day of June, 2004

**Roll Call:** Wayne C. Booth, Supervisor  
George A. Woolsey, Councilman  
Derek N. Benedict, Councilman  
Gilbert J. Piaquadio, Councilman

**Also Present:** Mark C. Taylor, Attorney for the Town of Newburgh  
Justin Rider, Attorney  
James W. Osborne, Town Engineer  
Andrew J. Zarutskie, Town Clerk  
Charlene M. Black, Deputy Town Clerk

**Absent:** James E. Manley, Councilman

**1. Pledge of Allegiance to the Flag led by Andrew Amundsen, 401 Gardnertown Road, Boy Scout Troop 27**

**2. Additional Items for Discussion from Town Board Members**  
**New #4 Bond Resolution for 2004 Highway Reconstruction and Resurfacing**  
**Old #4 became #6**  
**#7 became #5**  
**Old #5 became #7**  
**Old #6 became #8**  
**Old #8 became #10**  
**#9 CSEA Contract Discussion**

**3. Approval of Audit**

Councilman Woolsey had two questions for Mrs. Calarco, Town Accountant, about flagged vouchers. Mrs. Calarco said for the first voucher backup is on its way. Recreation didn't realize that three quotes were needed for boats that there is a value still on them and you trade them in. The other voucher is for Cellular One that was \$70.00 more than usual. We are going to try to consolidate all our bills together and maybe get a better plan.

MOTION was made by Councilman Woolsey to approve the Audit as presented in the amount of \$1,746,240.75, seconded by Councilman Benedict.

VOTE: Mr. Woolsey - aye; Mr. Benedict - aye; Mr. Manley - absent; Mr. Piaquadio - aye; Mr. Booth - aye. Motion passed 4 ayes – 1 absent.

**4. Town of Newburgh 2004 Highway Reconstruction and Resurfacing Bond Resolution**

The Bond Resolution was prepared by the Town's bond counsel, Douglas Goodfriend. This Resolution authorizes Capital Project which involves the Reconstruction and Resurfacing of Town Highways. The cost includes the budgeted amount as well as the bonded amount. The Resolution authorizes the issuance of \$1,520,000.00 Bonds of the Town of Newburgh. The total cost of the project which includes the amount that was budgeted is \$2,000,070.00. The authorization with respect to the bond is subject to permissive referendum which means following the adoption of the Resolution and before the Resolution takes effect, a notice must be published in the official newspapers of the adoption of the Resolution. This way if anyone opposed the financing, they could submit a petition to the Board for a Referendum. Councilman Woolsey, Darrell Benedict, Highway Superintendent, and Jackie Calarco, Town Accountant have been working diligently on this highway plan. These are the numbers that they came up with. Councilman Woolsey explained that we are behind schedule with the resurfacing. 2001, 2002, and 2003 have not been completed because we ran out of money or not enough money was in the budget. We would like to be on a ten year plan with all our roads. Materials and fuel are out of

sight. Also in the past four years we kept putting less money in the budget. For 2005 we need to make sure we put enough money in our budget to take care of the roads for that year. A survey was sent out a few years ago and the consensus was that the taxpayer does not mind paying extra taxes for road repair. Hopefully they still feel the same way. This would be a ten year bond and the rate does not hold for the life of the bond. This bond will take care of the drainage until 2005 and the drainage should be put in a year before it is resurfaced. Councilman Woolsey said if this is approved we should put it out to bid on our own and compare with the County. It doesn't cost much more to go to bid. We should have done this in January so we could have started work by now. Councilman Piaquadio asked what it will cost the taxpayer. Jackie Calarco, Town Accountant, said it will add to the Highway tax approximately 15.1 cents per assessed thousand, which is a 5.1% increase. Example on an assessed home for \$60,000.00 the tax increase would be approximately \$30.00. This is a Type II Action under SEQR the Board is only reconstructing existing highway maintenance and the change of the date from June 7, 2004 to June 2, 2004.

MOTION was made by Councilman Woolsey to adopt the Resolution Authorizing, Subject to Permissive Referendum, the Reconstruction and Resurfacing of Roads Throughout and in the Town of Newburgh. Orange County, New York, at a Maximum Estimated Cost of \$2,070,000.00 and Authorizing the Issuance of \$1,520,000.00 Bonds of Said Town to Pay the Cost Thereof, seconded by Councilman Benedict.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

#### **5. Accounting: Step Program for Part Time Employees**

Supervisor Booth explained that we are having a problem with our part time employees with the new time clock. Presently part time employees can only work 20 hours a week or 1040 hours per year. This is regulated by Orange County Civil Service. Before the time clock, part time employees who worked more than twenty hours their department head banked the time and used it at a later time. This is not the proper mode but it has been a common mode. With the time clock everyone's time is documented and if time is used improperly or a complaint is filed, the Comptroller and Civil Service will get in touch with the Supervisor because the Supervisor is personally liable for back pay and charges. Jackie Calarco, Town Accountant, has talked to the Civil Service Department about this and all it requires is a simple three step program (See attached memo on rate changes). Jackie has come up with a starting 5 to 10 year step program. There are five instances that the rate of pay will change (See attached memo), This will cost the Town a total of \$1854.00 for the next thirty weeks. Councilman Piaquadio said these people still can't work more than twenty hours a week. Supervisor Booth said with this program they can work forty hours every week just as long as they don't exceed 1040 hours per year. Jackie has the capacity to keep track of the part timers hours and will let anyone who is near the 1040 hour limit. Jackie explained that you could work forty hours this week and no hours next week.

MOTION was made by Councilman Woolsey to approve the Step Program for Part Time Employees to be implemented next week or when our Accountant feels it can be done, seconded by Councilman Piaquadio.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

#### **6. Engineering:**

##### **a. Waiver for Storm Water Management Presentation by Mercurio, Norton & Tarolli**

Bill Norton, from Mercurio, Norton, and Tarolli, was present to explain this item. According to the Town of Newburgh's Code, any lot / subdivision that is under 2 acres in size, must include a storm water management plan. The Code also allows for a waiver by the Town Board and Town Engineer to say this is not necessary. We have a three lot sub-division on the westerly side of Orchard Drive. Lot three is 7.8 acres and, has an existing farm house on it. We are proposing to build a new house on it. The impact on that lot will remain the same. Lots one and two are just

under the two acres. Lot two is 1.93 acres and lot one is 1.6 acres. The terrain is gently rolling. Lots two and three slope towards the old railroad bed in the back. Lot one slopes to the southwesterly corner. There will be no adverse effects to the neighbors drainage, no wet lands are involved and soil testing is very good soils. We are asking for the waiver from the Storm Water Management Plan. Jim Osborne, Town Engineer, was asked his opinion of this and he said they are so close to being exempt that they fall between exempt and a requirement. They are closer to the exemption end than the requirement end. He doesn't have a problem with a waiver. There is no drainage towards Orchard Drive.

MOTION was made by Councilman Benedict to approve the waiver from the Storm Water Management Plan for Lands of Northeast Construction Corp., seconded by Councilman Piaquadio.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

**b. Sewer Moratorium Waiver – BC& N Carpet One: Presentation by James Raab**

James Raab from Vincent J. Doce Associates, is here to explain this item. The lot this is planned for is next the diner on Rt. 52 and in front of the Showtime Cinemas. We are planning on putting in a 4,000 gallon holding tank until the sewer moratorium is lifted. The tank will be removed or permanently sealed within ninety days of the date the municipal sewer becomes available and hook into the municipal sewer line thirty days when the sewer becomes available. Jim Osborne, Town Engineer, said this meets the criteria that we have established and an agreement needs to be signed before they go before the Planning Board.

MOTION was made by Councilman Woolsey to approve the Sewer Moratorium Waiver for BC& N Carpet One for a holding tank, seconded by Councilman Piaquadio.

VOTE: Mr. Woolsey – aye; Mr. Benedict – nay; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 3 ayes – 1 nay - 1 absent.

**c. Proposed Family Restaurant Lands of Spagnoli: Presentation by James Raab**

This item is also being presented by James Raab from Vincent Doce Associates. Angelo Fiderias is the owner of Napoli Restaurant in Vails Gate, New York. His intentions are to open a pancake house / restaurant at the existing Spagnoli building on Rt. 52 at the I-84 Exit 9 on ramp and possibly a bakery on the bottom level. This is not official. We would like the Town Board's input on this. This property is in the water district but not in the sewer district. They will be contemplating Outside User Status because of the intersection of Brookside Drive. The restaurant would seat approximately 130, with approximately 50 people working there. Mr. Fiderias said this project will have a budget of about \$1,000,000.00. The entrance would have to stay where it is because it is DOT approved.

**d. Town Hall Expansion Re-Bid**

Jim Osborne, Town Engineer, explained he has met with the Town Board members and the architects, Silverman and Consentino. Jim would like the Board to authorize Silverman to prepare the Plans and Specifications for the Modified Town Hall expansion. Councilman Piaquadio said an effort has been made to look for another location for Town Hall but we have not come up with a suitable place. Based on that, we need to repair this building if we are going to stay here for any length of time.

Supervisor Booth said the roofs, HVAC and heating systems have to be done.

Councilman Benedict said he has been the most vocal against this renovation but he has a good feeling that these gentlemen are going to make sure that the issues and concerns will be addressed. Councilman Benedict asked if we are going to employ a clerk of the works for this project. Jim Osborne, Town Engineer, said it is something we need to look at as we get closer to bidding time. There will be enough time from advertising time and award of contract to get someone.

MOTION was made by Councilman Benedict to authorize Silverman & Constantino to prepare the specs and plans for the Modified Town Hall expansion and the re-bid of those plans, seconded by Councilman Piaquadio.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

**e. Crossroads / City of Newburgh Intermunicipal Agreement**

Jim Osborne, Town Engineer, explained this item. Part of the settlement with the City of Newburgh covers a payment that purchases our rights in the secondary clarifier that the City constructed. The original plans consisted of the construction of a primary clarifier and the construction of a secondary clarifier, modifications to the aeration tanks and miscellaneous mechanical upgrades. While the Town was planning this the City got sued by Hudson River Fisherman's group for permit violations. They entered into a consent order in which they had to build a secondary clarifier. They built it at a capacity of 3 mgd which would accommodate their permit violation of 1mgd and then grant the Town the 2 mgd. Then the contamination and litigation with Central Hudson happened. The City reached an agreement with Central Hudson, in which Central Hudson built the clarifier for them. There were incidental costs that weren't reimbursed by Central Hudson and part of our payment is our fair share cost of those incidental costs. Jim is recommending that we take that payment of \$563,909.00, from the Crossroads Capital Reserve Fund, which has been funded by outside user fees and funded for the purpose of the plant expansion. The money has been ear marked and we have a component of the settlement agreement that is a direct payment for part of the expansion. If the Board authorizes the payment from the Reserve Fund, Mark Taylor, Attorney for the Town, would need to prepare a Resolution stating so. The amount would have to go towards the Bonding Resolution for the plant expansion. We have costs that have been paid to date of about \$1.4 million plus this amount of \$563,909.00 plus whatever the cost of the construction is going to be. Mark Taylor, Attorney for the Town, explained that this doesn't towards the bonding resolution, it goes towards the authorization of expenditure of the Town's special district 202B proceedings. Should Mr. Valdina's estimate come in over that spending authorization, you would have to go through another public hearing process or an amended 202B process.

MOTION was made by Councilman Piaquadio to authorize Mark Taylor, Attorney for the Town, to prepare a Resolution for a payment of \$563,909.00 to be paid to the City of Newburgh be taken from the Crossroads Reserve Fund, seconded by Councilman Woolsey.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

**f. Non-applicability of Sewer Moratorium Wal Mart Expansion**

Jim Osborne, Town Engineer, explained that Wal Mart is planning an expansion on their site. They have an approved site plan that already included an expansion. Back in 1994 -95 when the Planning Board approved the site plan, an expansion was included in that approval. Wal Mart is entitled to build their expansion and based on the figures in the Draft Environmental Impact Statement, they are entitled to a flow of 6232 gallons per day. Wal Mart has vested rights so they are entitled to their expansion. Wal Mart has since come forward and said they want to build a slightly larger expansion. They have taken the sewage flows from similar sized facilities and comparing those flows to what they are entitled to. They looked at two sites one in Halfmoon, NY, which is smaller and the other in Wallkill, NY, which is slightly larger then the store proposed in Newburgh. Based on the analysis, they come up with sewer flows of 6198 for Halfmoon and 6292 for Wallkill and in Jim's opinion the Newburgh store will be equal to or lower then their previously approved figure of 6232 gallons per day. Under that analysis, their expansion does not increase their flows so the sewer moratorium does not apply to this expansion. We need to address that a portion of the building is in the Town of New Windsor. If they didn't meet this criteria, they would be able to divide the store and send whatever drainage was in New Windsor is sent to New Windsor. The second thing we have to deal with is that part of the store and site is outside the sewer district. If the City of Newburgh concurs we are going to ask for an outside user agreement and a payment for the portion of the store that is being serviced by the Town of Newburgh which have not been paying bond charges. They will be treated as an outside user subject to all the

outside user fees that are typically assessed for a commercial building and this will apply only to the portion that is outside the Town of Newburgh. We need to have a similar agreement for water service because that portion of the building is outside the Town of Newburgh.

MOTION was made by Councilman Woolsey to authorize Mark Taylor, Attorney for the Town, to prepare outside user agreement for both water and sewer after a response from the City of Newburgh has been received, seconded by Councilman Piaquadio.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

MOTION was made by Councilman Woolsey to approve the non-applicability of the sewer moratorium, seconded by Councilman Benedict.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

**g. Waste Water Treatment Plant Expansion (SEQR) review: Stearns & Wheler**

Jim Osborne, Town Engineer, explained that this was brought up when we authorized Frank Valdina to update the cost estimate, Mark Taylor, Attorney for the Town, also informed the Board that we needed to make a determination under SEQR whether or not a supplemental Environmental Impact Statement needed to be filed. This is a cost proposal for review of the 1988 DEIS and preparation of an EAF associated with possible upgrades to the City of Newburgh Wastewater Treatment Plan. We need to certify that we have complied with the State Environment Quality Review (SEQR) Act. The Town Board is lead agency. The cost is a firm fixed cost of \$6400.00.

MOTION was made by Councilman Woolsey to approve the cost proposal presented by Stearns and Wheler for a cost not to exceed \$6400.00 for the EAF, seconded by Councilman Benedict.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

**7. Recreation**

**a. Request to Hire Seasonal Summer Staff**

This is a request from Gary MacEntee, Recreation Director, to approve the attached list for summer staff. The start date would be June 17, 2004 which is the start of camp and the season completion date is September 1, 2004. Ann Baxter, Administrative Assistant for Recreation is here tonight to answer any questions. She said most of the applicants are returnees. We are asking for one promotional position for Jeff Phillips, who they would like to become one of the main camp directors. Councilman Benedict asked if there is more money in the budget to pay these kids a little more and Supervisor Booth said he has to sit down with Jackie Calarco, Town Accountant, he believes we did give them three percent raises.

MOTION was made by Councilman Benedict to approve the attached list of summer staff as presented and bring it back to the Board if there are salary increases for a vote, with a start date of June 17 and completion date of September 1, 2004, seconded by Councilman Piaquadio.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

**b. Community Day Fireworks**

This is a request from Gary MacEntee, Recreation Director, to approve Legion Fireworks of Wappingers Falls, NY at a cost of \$9,999.00 for the July 2, 2004 Community Day Celebration. We have had success in the past with them rescheduling due to inclement weather, and their display has been exceptional. There are three quotes attached. Supervisor Booth would like in the future all proposals to have the diameter of each firework and how many there are. Ann Baxter thought they did already.

MOTION was made by Councilman Benedict to award Legion Fireworks of Wappingers Falls, NY with their proposal of \$9,999.00 for the July 2, 2004 Community Day Firework Celebration, seconded by Councilman Woolsey.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – nay; Mr. Booth – aye. Motion passed 3 ayes – 1 nay - 1 absent.

#### **8. Highway: Summer Materials Bids**

This is a request from Darrell Benedict, Highway Superintendent, to go out to bid for Summer Materials including Guide Rails, Cold Milling Machine, Chip Spreader and Wheel Rubber Tire Roller with a bid opening of June 9, 2004 at 10:00 a.m. (See attached with itemized materials.)

MOTION was made by Councilman Woolsey to approve the bid packet as presented, seconded by Councilman Benedict.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

#### **9. CSEA Contract**

Councilman Benedict wanted to know if the Board would approve him to send to Elayne Gold, labor attorney, a copy of the current CSEA contract and addendums if there are any, for her review. Councilman Benedict was contacted by CSEA's attorney and they would like to sit down and talk, but he would like some kind of feedback before that. He said he has sat with the majority of department heads who have CSEA members for their feedback. Supervisor Booth said we have two options; Elayne or Mike Richardson from Amtek. Amtek is a Human Resources Group and they are much cheaper.

MOTION was made by Councilman Piaquadio to authorize Derek Benedict to correspond with Mike Richardson at Amtek to get a cost estimate for negotiations, seconded by Councilman Woolsey.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

#### **10. Assessor: New Penn Motors Certiorari**

Mark Taylor, Attorney for the Town, explained that this a proposed settlement with New Penn Motors for the years 2001-2002, 2002-2003, and 2003-2004. Michael Fogarty, Sole Assessor, will supply the Town Board with the actual numbers for Monday night's meeting.

#### **Adjournment**

MOTION was made by Councilman Woolsey to adjourn the Audit Meeting / Work Session Meeting of June 2, 2004 at 8:53 p.m., seconded by Councilman Benedict.

VOTE: Mr. Woolsey – aye; Mr. Benedict – aye; Mr. Manley – absent; Mr. Piaquadio – aye; Mr. Booth – aye. Motion passed 4 ayes – 1 absent.

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Andrew J. Zarutskie, Town Clerk

by

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Charlene M. Black, Deputy Town Clerk



